## REMARKS

Claims 1, 10, and 14 have been amended to correct typographic errors. In particular, the phrase "financial exposure and an associated hedging instrument" found in each of claims 1, 10, and 14 has been corrected to read "financial exposure of an associated hedging instrument." Additionally, the word "comute" in claim 14 has been corrected to read "compute."

Additional Remarks are preceded by comments from the Examiner, presented in indented bold-faced type.

> **3. Claims 1-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lange, U.S Patent 6,321, 212 in view Payne et al (Hereinafter U.S Patent 6, 343, 272).**
>
> **As per claims 1-9, Lange discloses a method implemented by a programmed computer system for reducing periodic earnings volatility associated with a hedged exposure, the method comprising:**
>
> *** * ***
>
> **Lange fails to teach in each of a plurality of sequential periods, processing data on the computer to compute a redesignation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument.**
>
> **However Payne discloses the asset portfolio is managed to keep the sensitivities close to targets determined by the investment strategy. By periodically monitoring and matching the risk, the insurance company can maintain profits and meet death benefit (or surrender value) liabilities. As part of these hedging activities, the system also shows changes in market values of assets, liabilities and economic surplus per point change in the S&P 500 Index or other index and per basis point change of interest at key or partial durations, to assess the effectiveness of hedging operations. (note abstract and see column 4 line 65 and column 5 line 5 and column 6 lines 20 - 45 and column 2 lines 35-65 and column 3 lines 5-10).**
>
> *** * ***

The undersigned respectfully submits that neither Lange or Payne, alone or together, teach a method implemented by a programmed computer system for reducing periodic earnings volatility associated with a hedged exposure wherein the method includes processing data and instructions on the computer to account for a financial exposure of an associated hedging instrument by designating a portion of the value of the financial exposure as being hedged by the hedging instrument, the portion being determined based on processing of data representing a price sensitivity of the hedging instrument with respect to changes in market value of an underlying instrument; and in each of a plurality of sequential periods, processing data on the computer to compute a redesignation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument.

Lange is understood as teaching systems and methods of trading, and financial products, having a goal of reducing transaction costs for market participants who hedge against or otherwise make investments in contingent claims relating to events of economic significance. (See generall, Lange, Summary of the Invention). While Lange does discuss the use of hedging transactions, the present invention does not claim hedging transactions generally, but rather claims a particular method for reducing periodic earnings volatility associated with a hedged exposure. The invention claimed in the present application is <u>not</u> a hedged transaction of the type disclosed in Lange.

The Examiner cites to "column 61 -65 lines 5-65 and column lines 50-65 and column 7 line 5" (presumably intended as column 61, lines 5-65 and column 65 lines 50-65)[1] for the disclosure of "data and instructions on the computer to account for a financial exposure and an associated hedging instrument by designating

---

[1] The undersigned is confused by the Examiner's citation format and assumes that the Examiner intended the citation to read "column 61 lines 5-65 and column 65 lines 50-65." If this assumption is incorrect, the undersigned request clarification of the citations so that a full response to the Examiner's comments can be given.

a portion of the value of the financial exposure as being hedged by the hedging instrument" and to column column 9 lines 10-25 for the proposition that "the portion being determined based on processing of data representing a price sensitivity of the hedging instrument with respect to changes in market value of an underlying instrument." The undersigned respectfully disagrees with the Examiner's interpretation of the cited text. In particular, the undersigned disagrees that column 9 lines 10-25 show that a portion of a financial exposure of a hedged instrument is "determined based on processing of data representing a price sensitivity of the hedging instrument with respect to changes in market value of an underlying instrument."

With respect to the Examiner's citation and Lange's discussion that "returns for one state are affected by changes in investments in another state in the same distribution", the undersigned questions whether the Examiner is asserting that these "states," and the calculations of returns with respect to the states, is the same as the "portion" recited in claim 1. If so, the undersigned respectfully disagrees. Lange discloses that states are "typically constructed from a distribution of possible outcomes ... owing to somen real-world event ... a set of sates is typically chosen so that the states are mutually exclusive and the set collectively covers or exhausts all possible outcomes for the event. This arrangement etnails that, by design, exactly one state always occurs based on the event outcome." (Lange, col. 1, l. 63- col. 2, l. 7). In other words, as understood by the undersigned, Lange's "states" represent various probabilistic outcomes. In contrast, the "portion" recited in claim 1 is an amount of a financial exposure (e.g., a real dollar amount). Furthermore, claim 1 recites that the "portion" is determined based on a price exposure of the hedging instrument. Lange's "states" are not determined based on the price exposure of the hedging instrument as recited by claim 1 (though, as understood by the undersigned, Lange's "states" may be related to a modeling of that exposure and determined based on such modeling; this is not the same as what is claimed). In conclusion, the "portions" of claim 1 are not the same as Lange's "states." If the Examiner was not asserting that Lange's "states" were equivalent to

the claimed "portions", then the undersigned respectfully submits that the Examiner's comments and rejection was not clear and that further clarification is needed.

Payne, on the othe hand, discloses "A system for analyzing and managing a plurality of specified life insurance policies and annuit contracts on behalf of an insurance carrier." (See Payne, Abstract). The Examiner, in his comments, cites Payne for the proposition that "the asset portfolio is managed to keep the sensitivities close to targets determined by the investment strategy. By periodically monitoring and matching the risk, the insurance company can maintain profits and meet death benefit (or surrender value) liabilities. As part of these hedging activities, the system also shows changes in market values of assets, liabilities and economic surplus per point change in the S&P 500 Index or other index and per basis point change of interest at key or partial durations, to assess the effectiveness of hedging operations. (note abstract and see column 4 line 65 and column 5 line 5 and column 6 lines 20 -45 and column 2 lines 35-65 and column 3 lines 5-10)" and the Examiner concludes that the present application's claims requiring "a plurality of sequential periods, processing data on the computer to compute a redesignation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument" are "taught by Payne". The undersigned respectully submits that Payne does not disclose the asserted teaching.

With respect to Payne's disclosure at column 4 line 65, the cited text merely discloses that "a portion of assets 341 [are] ... invested in fixed rate investments." It is questionable whether this text is relevant at all to the present invention, but in any case, this disclosure certainly does not go so far as to disclose the use of sequential periods in which date is computed to redesignate a portion of financial exposure based on changed price sensitivity of a hedging instrument as recited by claim 1.

With respect to Payne's disclosure at column. 5, line 5, Payne merely teaches a system that shows "changes in market values ... per point changed [in certain indexes] at key or partial durations, to assess the effectiveness of hedging operations." Again, this is not the "redesignation" recited by claim 1, but is understood to merely be a reporting operation. If the Examiner's understanding of the cited text is different, further explanation is requested. Again, there is no suggestion here to "redesignate" a portion of a financial exposure of a hedging instrument in the manner recited by claim 1.

With respect to Payne's disclosure at column 6, lines 20-45, column 2, lines 35-65, and column 3 lines 5-10, each of these cited sections fail to teach or suggest "in each of a plurality of sequential periods, processing data on the computer to compute a redesignation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument" as recited within the context of claim 1. While each of the cited sections of Payne may be related to some type of periodic calculation, they are not the periodic calcuation required by claim 1. Accordingly, the undersigned submits that Payne does not disclose or suggest "a plurality of sequential periods, processing data on the computer to compute a redesignation of the portion of the financial exposure based on changed price sensitivity of the hedging instrument".

Because neither Lange or Payne, alone or together, disclose or suggest redesignation of the portion of the financial exposure of a hedged exposure to reduce periodic earnings volatility associated with a hedged exposure as recited by claim 1, the undersigned submits that the rejection of claim 1 under § 103(a) is improper. The undersigned respectfully request that the Examiner withdraw his rejection and allow the claim.

Claims 2-9 depend from claim 9 and, accordingly, are allowable for at least the same reasons as stated with respect to claim 1.

**As per claims 10-11, Lange discloses a method implemented by programmed computer system for of reducing periodic earnings volatility associated with a hedged exposure, the method comprising:**

* * *

**Lange fails to teach executing a computer program module configured to receive data and process computer code instructions to designate, a portion of the first part as a hedge of the financial exposure such that the remainder of the first part offsets the delta of the second part.**

**However Payne discloses the asset portfolio is managed to keep the sensitivities close to targets determined by the investment strategy. By periodically monitoring and matching the risk, the insurance company can maintain profits and meet death benefit (or surrender value) liabilities. As part of these hedging activities, the system also shows changes in market values of assets, liabilities and economic surplus per point change in the S&P 500 Index or other index and per basis point change of interest at key or partial durations, to assess the effectiveness of hedging operations. (note abstract and see column 4 line 65 and column 5 line 5 and column 6 lines 20 - 45 and column 2 lines 35-65 and column 3-5 lines 5-65).**

* * *

The Examiner has rejected claims 10-11 under Lange and Payne. The Examiner's comments with respect to Lange as applied to claims 10-11 are substantially identical to the Examiner's comments with respect to Lange as applied to claims 1-9. The undersigned respectfully disagrees with the Examiner's appliation of Lange for substantially the same reasons set forth with respect to claim 1.

The Examiner, in his comments, further asserts that, although Lange fails to disclose "executing a computer program module configured to receive data and process computer code instructions to designate, a portion of the first part as a hedge of the financial exposure such that the remainder of the first part offsets the delta of the second part," but that this is disclosed by Payne. The undersigned respectfully disagrees. In support of the Examiner's assertion, the Examiner cites to the same sections of Payne used in the Examiner's rejection of claim 1 (i.e., the abstract, column 4 line 65, column 5 line 5, column 6 lines 20 -45, column 2 lines 35-65 and column 3-5 lines 5-65). However, and for substantially the same reasons set forth with respect to claim 1, the undersigned respectfully submits that the Examiner's interpretation is incorrect. Accordingly, for at least the reason that neither Lange or Payne, alone or together, teach or suggest "executing a computer program module configured to receive data and process computer code instructions to designate, a portion of the first part as a hedge of the financial

exposure such that the remainder of the first part offsets the delta of the second part", the undersigned submits that the Examiner's rejection under § 103(a) is improper. The undersigned respectfully request that the Examiner withdraw his rejection and allow the claim.

> **As per claims 12-13, Lange discloses a method of accounting for a hedged exposure, the method comprising: procuring a hedging instrument to hedge a total exposure value of a financial instrument; and**
>
> * * *
>
> **As per claim 14, Lange discloses a computer system comprising:**
>
> * * *

The Examiner's rejections of independent claims 12 and 14 are substantially the same as the Examiner's rejection of claim 1. For at least the reasons stated with respect to claim 1, the undersigned submits that claims 12 and 14 are allowable over the prior art. Claim 13 depends from claim 12 and is allowable for at least the reasons stated with respect to claim 1. The undersigned respectfully requests that the Examiner withdraw the rejectio and allow the claims.

Proper Patent Office Procedure Respectfully Requested:

With all due respect, the undersigned once again reminds the Examiner of the prohibition against piecemeal examination set forth in MPEP § 707.07 ("The Examiner's actions should be complete as to all matters."). The undersigned respectfully submits that the Examiner's January 1, 2004 action was not complete in that the Examiner did not explain how, or if, the prior art taught or suggested the limitations of the dependent claims. In fact, the Examiner has not given any indication on how the cited prior art discloses the elements recited by claims 2-9, 11 and 13. This is not a full and complete examination as required by MPEP § 707.07.

It is respectfully requested that the Examiner either allow all of the pending claims or issue a new non-final office action that is complete as to all matters in accordance with MPEP § 707.07.

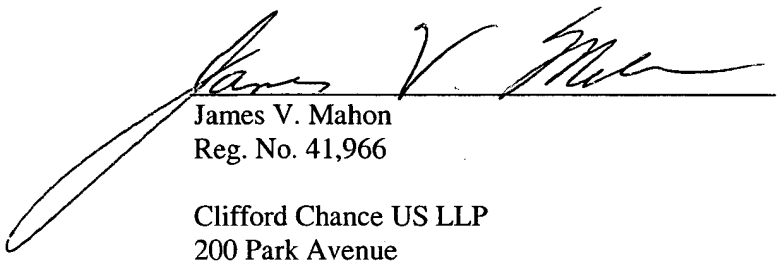
## Conclusions

Claims 1-14 are now pending and are believed to be in condition for allowance. The undersigned respectfully requests that the Examiner allow all pending claims.

No new matter has been added.

Please apply any credits or excess charges to our deposit account number 50-0521.

Respectfully submitted,



James V. Mahon
Reg. No. 41,966

Clifford Chance US LLP
200 Park Avenue
New York, NY 10166-0153
Telephone: (212) 878-8073